

# SENATE MOTION

**MADAM PRESIDENT:**

**I move** that Engrossed House Bill 1010 be amended to read as follows:

- 1           Page 11, line 18, delete "thirty (30)" and insert "**forty-five (45)**".
- 2           Page 12, delete lines 9 through 15, begin a new paragraph and insert:
- 3           **"(b) If there is a trial, the additional costs caused by the trial**
- 4           **shall be paid as ordered by the court. However, if there is a trial**
- 5           **and the amount of damages awarded to the defendant by the**
- 6           **judgment, exclusive of interest and costs, is greater than the**
- 7           **amount specified in the last offer of settlement made by the plaintiff**
- 8           **under section 12 of this chapter, the court shall require the plaintiff**
- 9           **to pay the defendant's litigation expenses, including reasonable**
- 10           **attorney's fees, in an amount that does not exceed twenty-five**
- 11           **percent (25%) of the cost of the acquisition."**
- 12           Page 13, line 16, delete "is" and insert "**may be**".
- 13           Page 13, line 34, delete "is" and insert "**may be**".
- 14           Page 17, line 4, after "property." insert "**If a court determines that**
- 15           **an eminent domain proceeding brought under this chapter is**
- 16           **unauthorized because the condemnor did not meet the conditions**
- 17           **described in this section, the court shall order the condemnor to**
- 18           **reimburse the owner for the owner's reasonable attorney's fees**
- 19           **that the court finds were necessary to defend the action."**
- 20           Page 17, line 41, delete "If the owner of a parcel of real property
- 21           incurs attorney's" and insert "**(a) Not later than forty-five (45) days**
- 22           **before a trial involving the issue of compensation, the condemnor**
- 23           **shall, and an owner may, file and serve on the other party an offer**
- 24           **of settlement. Not more than five (5) days after the date the offer of**
- 25           **settlement is served, the party served may respond by filing and**
- 26           **serving upon the other party an acceptance or a counter offer of**
- 27           **settlement. The offer must state that it is made under this section**
- 28           **and specify the amount, exclusive of interest and costs, that the**
- 29           **party serving the offer is willing to accept as just compensation and**
- 30           **damages for the property sought to be acquired. The offer or**

1 counter offer supersedes any other offer previously made under  
2 this chapter by the party.

3 (b) An offer of settlement is considered rejected unless an  
4 acceptance in writing is filed and served on the party making the  
5 offer before the trial on the issue of the amount of damages begins.

6 (c) If the offer is rejected, it may not be referred to for any  
7 purpose at the trial but may be considered solely for the purpose  
8 of awarding costs and litigation expenses under section 10 of this  
9 chapter.

10 (d) This section does not limit or restrict the right of an owner  
11 to payment of any amounts authorized by law in addition to  
12 damages for the property taken from the owner.

13 Sec. 10. (a) Except as provided in subsection (b), the condemnor  
14 shall pay the costs of the proceedings.

15 (b) If there is a trial, the additional costs caused by the trial  
16 shall be paid as ordered by the court. However, if there is a trial  
17 and the amount of damages awarded to the owner by the  
18 judgment, exclusive of interest and costs, is greater than the  
19 amount specified in the last offer of settlement made by the  
20 condemnor under section 9 of this chapter, the court shall require  
21 the condemnor to pay the owner's litigation expenses, including  
22 reasonable attorney's fees, in an amount that does not exceed  
23 twenty-five percent (25%) of the cost of the acquisition."

24 Page 17, delete line 42.

25 Page 18, delete lines 1 through 5.

(Reference is to EHB 1010 as printed February 17, 2006.)

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Senator LANANE